

CCRB INVESTIGATIVE RECOMMENDATION

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|---|--|--|---|------------------------------------|---------------------------------|
| Investigator: Christopher Landino | Team: Team # 6 | CCRB Case #: 200604525 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 04/08/2006 12:45 AM | Location of Incident: 58414 Beach 58th Street | Precinct: 101 | 18 Mo. SOL 10/8/2007 | EO SOL 10/8/2007 | |
| Date/Time CV Reported Sun, 04/09/2006 10:52 PM | CV Reported At: CCRB | How CV Reported: Call Processing System | Date/Time Received at CCRB Mon, 04/10/2006 2:18 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
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| Subject Officer(s) | Shield | TaxID | Command |
|---------------------------|--------|--------|---------|
| 1. POM Matthew Handelsman | 12644 | 932771 | 101 PCT |
| 2. Officers | | | |
| 3. SGT Carlos Fabara | 01279 | 922317 | 101 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|--------------------|-----------|--------|----------|
| 1. POM John Florio | 29396 | 930165 | 101 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------------|--|-----------------------------|
| A.SGT Carlos Fabara | Force: Sgt. Carlos Fabara used physical force against § 87(2)(b) | |
| B.POM Matthew Handelsman | Force: PO Matthew Handelsman used physical force against § 87(2)(b) | |
| C. Officers | Abuse: Officers refused to provide their name and shield numbers to § 87(2)(b) | |

Synopsis

On April 8, 2006, PO Mathew Handelsman and Sgt. Carlos Fabara arrested § 87(2)(b) in the vicinity of 58-414 Beach 58th Street, in Queens. Subsequent to processing his arrest at the 101st Precinct station house, the officers escorted § 87(2)(b) to the prisoner van at which time § 87(2)(b) became irate and began kicking and punching the officers. He eventually lodged himself between the seat of the van and its floor. Once getting § 87(2)(b) out from beneath the seat, he spit in PO Handelsman's face, at which time Sgt. Fabara decided that § 87(2)(b) could possibly be an emotionally disturbed person and called EMS. § 87(2)(b) was transported to § 87(2)(b).

§ 87(2)(b) alleged that PO Handelsman kicked and punched him while he was in the prisoner van, and that Sgt. Fabara used excessive force by pushing his forearm into § 87(2)(b)'s neck (allegation A and B). He also alleged that officers did not provide him with their names, although he never alleged as to when or where he had asked the officers for their information (allegation C). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

This case was reassigned to Investigator Landino from Investigator Gurjot Kaur in June of 2006.

Summary of Complaint

CCRB Initial Complaint Report: § 87(2)(b)

§ 87(2)(b) called the CCRB on April 8, 2006 to file this complaint on behalf of her son, § 87(2)(b) (Enc. 3A-B).

Medical Records: § 87(2)(b)

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (Enc. 4). His medical records cite him as having said only, "I'm fine."

CCRB Statement: § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) old black male, was interviewed at the CCRB on April 20, 2006 (Enc. 5A-E).

On April 7, 2006, § 87(2)(b) was walking with two of his friends, § 87(2)(b) (last name unknown) and § 87(2)(b) in the vicinity of 58-414 Beach 58th Street when two officers, identified by the CCRB as PO Mathew Handelsman and Sgt. Carlos Fabara, stopped their vehicle beside the males and approached only § 87(2)(b). § 87(2)(b) was immediately handcuffed and placed into the patrol vehicle; the officers did not ask his friends any questions.

§ 87(2)(b) was arrested and brought to the 101st Precinct stationhouse. § 87(2)(b) urinated on the floor of his cell area before being brought outside by Sgt. Fabara and PO Handelsman. § 87(2)(b) was placed inside of the van but refused to sit in the back seat. Sgt. Fabara pushed his forearm into § 87(2)(b)'s neck, leaning § 87(2)(b)'s body backwards. PO Handelsman then punched § 87(2)(b) three to four times in his stomach. § 87(2)(b) fell to the floor of the van, at which time PO Handelsman punched him two more times in his shoulder and back.

The officers picked § 87(2)(b) up and escorted him out of the van and back into the station house. The officers led § 87(2)(b) back to the cell area and laid him down on the floor in the area he had urinated on.

§ 87(2)(b) and PO Handelsman engaged in an argument and § 87(2)(b) he claimed, accidentally spit on PO Handelsman; § 87(2)(b) then began to cry. EMT's, one of whom was § 87(2)(b) arrived at the station house and transported § 87(2)(b) to § 87(2)(b). § 87(2)(b) additionally claimed that throughout this incident he had been asking officers for their names but none responded; he did not provide any additional or identifying information in regards.

Results of Investigation

Civilian Statement: EMT § 87(2)(b)

§ 87(2)(b) an FDNY EMT, was interviewed at the CCRB on October 23, 2006 (Enc. 6A-E). On April 8, 2006, she called the 101st Precinct stationhouse, along with her partner, because § 87(2)(b) had been spitting on officers and was said to be a possible emotionally disturbed person. She and her partner arrived at the station house and transported § 87(2)(b) to § 87(2)(b).

§ 87(2)(b) denied that § 87(2)(b) had been injured. She recalled him being "angry" and yelling at officers. She denied that § 87(2)(b) was covered or smelled of urine, and noted that she would remember anything of that nature.

Telephone Statement: § 87(2)(b)

§ 87(2)(b) § 87(2)(b)'s friend, provided a phone statement about this incident on March 16, 2007 (Enc. 6F). He refused to make a formal statement. § 87(2)(b) denied knowing why § 87(2)(b) was arrested on April 7, 2006, but stated that the officers in question, identified as Sgt. Carlos Fabara and PO Mathew Handelsman, paid little to no attention to § 87(2)(b) and their other friend § 87(2)(b) (last name unknown).

Memobook: PO Mathew Handelsman

PO Mathew Handelsman documented in his memobook having arrested § 87(2)(b) on April 7, 2007 at 1:01 AM (Enc. 9A-C). It is additionally noted that § 87(2)(b) refused to be fingerprinted at 2:00 AM, 2:30 AM, and 2:45 AM. A § 87(2)(b) he was transported to § 87(2)(b) as an EDP.

NYPD Complaint Report: § 87(2)(b)

PO Mathew Handelsman stated in § 87(2)(b)'s arrest report that he was observed fighting on a public sidewalk and shouting obscene language (Enc. 10A-C). He refused to be handcuffed and was kicking and flailing his arms and legs. § 87(2)(b) was charged with violating § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b)

Subject Officer CCRB Statement: PO Mathew Handelsman

As PO Mathew Handelsman resigned from the NYPD on January 7, 2007, his statement was not obtained for this investigation.

Subject Officer CCRB Subject: Sgt. Carlos Fabara

Sgt. Carlos Fabara was interviewed at the CCRB on June 5, 2007 (Enc. 8A-B).

Sgt. Fabara stated that § 87(2)(b) was extremely volatile throughout this incident. Subsequent to arresting § 87(2)(b) and bringing him to the station house, he and PO Handelsman had escorted § 87(2)(b) to the prisoner van so he could be transported to Central Booking.

§ 87(2)(b) attempted to break away from the officers. At the door of the van, he lifted his body up and pushed his feet against the doorframe to prevent him from getting into the van. Once he was inside of the van, § 87(2)(b) refused to sit where the officers had instructed him. The officers tried to get him into the back of the van by physically moving his body. § 87(2)(b) kicked the officers and tried to bite them as well. Sgt. Fabara could not recall whom the officer was who helped him do this. Once in the back of the van, § 87(2)(b) continued kicking the officers, and eventually "wiggled himself down underneath the seat" and the officers had trouble getting him back out.

Sgt. Fabara decided to send him to the hospital as an emotionally disturbed person. He stated that PO Handelsman, as the arresting officer, would have been the officer who aided him in putting § 87(2)(b) in the cell.

Sgt. Fabara could not recall § 87(2)(b) urinating in the cell. He denied that § 87(2)(b) had been slammed down onto the ground beneath the van. He stated that the officers only used force with § 87(2)(b) in order to keep his legs from kicking them and his mouth from biting them, but it consisted of holding § 87(2)(b) and not pushing or punching § 87(2)(b) specifically in his stomach, shoulder or neck. Sgt. Fabara denied that § 87(2)(b) exited the van of his own will, stating, "He didn't do anything of his own will. He was as violent as he possibly could be for a man that was handcuffed."

Sgt. Fabara denied that § 87(2)(b) had been placed on the floor to lay in his own urine. Sgt. Fabara was asked if § 87(2)(b) asked for the officers to identify themselves, and he stated, "I don't recall him asking for anybody's name. If he did I certainly would have given it to him... I'm well aware of the department policy regarding that."

Witness Officer: PO John Florio

PO John Florio was interviewed on April 13, 2007 (Enc. 7A-B) because he had been working with PO Handelsman earlier in the night on April 6, 2006.

Because PO Florio had made an earlier, unrelated arrest to that of § 87(2)(b)s, he was at the station house with his prisoner during this incident, and furthermore denied having seen § 87(2)(b) at the stationhouse or having any involvement in this incident.

Medical Documents

Medical Documents: § 87(2)(b)

§ 87(2)(b) was treated as a possible emotionally disturbed person at § 87(2)(b) on § 87(2)(b) (Enc. 16A-H). § 87(2)(b)s medical records stated that § 87(2)(b) had been acting erratically and spitting while at the 101st station house. He was not reported to have any injuries, was diagnosed with displaying behavioral issues, and released back into police custody.

NYPD Documents

Roll Call

PO John Florio and PO Mathew Handelsman are cited on the 101st roll call from April 8, 2006 as having worked together (Enc. 11A-B). Sgt. Carlos Fabara was listed as the anti-crime supervisor.

Command Log

The 101st Precinct command log from April 8, 2007 cites § 87(2)(b) as having gone to § 87(2)(b) as an EDP, with EMS at § 87(2)(b) (Enc. 13).

NYC Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant/Victim CCRB History

§ 87(2)(b) as two previous CCRB complaints. § 87(2)(b)

Subject Officer CCRB History

Of the numerous complaints filed against Sgt. Carlos Fabara, he has received charges for ten substantiated allegations. In regards to CCRB 200508693, for which the allegations were entering and searching a location, refusing to provide his name and shield, authorizing the detention of an individual, and authorizing a frisk, he received instructions. In regards to CCRB 200511684, for which the allegations were the stop and question as well as frisk of an individual, Sgt. Fabara received charges. In regards to 200512992, he received "command discipline – A." In regards to 200606723, the allegations were refusal to provide name and shield and frisk; he received charges.

Conclusions and Recommendations

Officer Identification

PO Mathew Handelsman was § 87(2)(b)'s arresting officer. Sgt. Carlos Fabara, PO Handelsman's partner on April 7, 2006, confirmed that he and PO Handelsman were the two officers in question who arrested and put § 87(2)(b) into the prisoner van outside of the 101st Precinct station house.

Undisputed Facts

PO Handelsman and Sgt. Fabara arrested § 87(2)(b) on April 7, 2006. They had little to no interaction with § 87(2)(b)'s two friends. At the 101st station house the officers escorted § 87(2)(b) to the prisoner van outside, where § 87(2)(b) was insubordinate towards the officers and the officers used force against § 87(2)(b). § 87(2)(b) spit on PO Handelsman and began acting so irrationally that the officers called EMS and had § 87(2)(b) taken to § 87(2)(b) as an emotionally disturbed person.

Disputed Facts

§ 87(2)(g)
Sgt. Fabara denied that § 87(2)(b) has asked officers for their names.

Assessment of Evidence

§ 87(2)(g)
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Allegation A: Sgt. Carlos Fabara used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Fabara, although unprovoked, pushed his forearm into § 87(2)(b)'s neck, forcing him to the floor of the van. The officers called EMS because § 87(2)(b) was a suspected "emotionally disturbed person." § 87(2)(b) admitted to struggling with officers and spitting on PO Handelsman. Sgt. Fabara insisted that § 87(2)(b) while inside of the van, had been violently struggling with the officers. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation B: PO Matthew Handelsman used physical force against § 87(2)(b)

§ 87(2)(g)
§ 87(2)(g)

Allegation C: Officers refused to provide their name and shield numbers to § 87(2)(b)

As stated, § 87(2)(b) alleged at the end of his interview that he asked the officers, who were in uniform, for the names and shield numbers. He did not provide any details surrounding the allegation, nor did he state when in the incident he had asked. Sgt. Fabara denied that such a question had been asked, § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: